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A critical assessment on National Action Plans: Challenges and benefits for the promotion and protection of Human Rights

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A critical assessment on National Action Plans: Challenges and benefits for the promotion and protection of Human Rights

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Abstract

National Action Plans (NAPs) have been increasingly adopted world-wide after the Vienna Declaration in 1993, where it was urged to consider the improvement and promotion of Human Rights. In this paper, we discuss their usefulness and success by analysing the challenges presented during NAP processes as well as the benefits this set of actions entails: The challenges for their implementation outweigh its actual benefits. Nevertheless, NAPs have great potential. Based on new research, we elaborate a set of recommendations for improving the design and implementation of national action planning. In order to effectively bring NAP into practice, we consider it crucial to plan and analyse every state local circumstances in detail. The latter is important, since the implementation of a concrete set of actions is intended to directly transform and improve the local living conditions of the people. In a long-term perspective, we defend the benefit of NAP's implementation for complying obligations set up by HR treaties.

Zusammenfassung

Nationale Aktionspläne (NAP) werden seit der Wiener Erklärung von 1993, in der die Verbesserung und Förderung der Menschenrechte gefordert wird, weltweit zunehmend angenommen. In diesem Papier diskutieren wir ihren Nutzen und Erfolg, indem wir die Herausforderungen, die sich während der NAP-Prozesse ergeben, sowie die Vorteile, die dieses Maßnahmenpaket mit sich bringt, analysieren: Die Herausforderungen bei ihrer Umsetzung überwiegen die tatsächlichen Vorteile. Dennoch haben NAPs ein großes Potenzial. Beruhend auf neueren Forschungen erarbeiten wir eine Reihe von Empfehlungen zur Verbesserung der Gestaltung und Umsetzung der nationalen Aktionsplanung. Um einen NAP effektiv in die Praxis umzusetzen, halten wir es für entscheidend, die lokalen Gegebenheiten jedes Staates im Detail zu planen und zu analysieren. Letzteres ist wichtig, da die Umsetzung eines konkreten Maßnahmenpakets die Lebensbedingungen der Menschen vor Ort direkt verändern und verbessern soll. Langfristig gesehen verteidigen wir den Nutzen der Umsetzung des NAP für die Einhaltung der in den Menschenrechtsverträgen festgelegten Verpflichtungen.

I.   Introduction

National Action Plans (NAPs) are government-drafted policy documents that articulate state priorities and indicate future actions to support implementation of legal obligations or policy commitments on a given topic.[1] Since the 1980s, intergovernmental bodies have encouraged the adoption of NAPs as a tool to advance state fulfillment of international obligations and policy commitments together with Non Governmental Organizations (NGOs), Civil Society, and Human Rights (HR) Defenders among other stakeholders. The main goal is to establish National Human Rights Institutions (NHRI), develop national programs of HR education, and develop national plans of action for the promotion and protection of HR with the participation of the stakeholders.[2]

In 1993, the Vienna Declaration and Programme of Action urged states to "consider the desirability of drawing up a NAP identifying steps whereby the State would improve the promotion and protection of human rights"[3]. Between 1993 and 2021, around 81 NAPs on Businesses and HR worldwide have been published, but the success of these is questionable. The efficiency in advancing national compliance with international norms has been criticized and analyzed by different scholars. However, this is still an area in need of more analytical and structural research in terms of planning.

Within this ongoing discussion on the usefulness and success of NAPs, our main objective in this essay is to analyze the challenges presented during NAP processes as well as the benefits this set of actions entails. With this objective, we will introduce and bring into dialogue two important experts on the topic: Azadeh Chalabi, who has created a whole theory on HR action planning, and Claire Methven O'Brien, who has been actively involved in the direct analyses of the already existing NAP processes.[4] We consider that putting together the perspectives of Chalabi and Methven O'Brian sheds light on the discussion whether NAPs are useful tools in promoting and protecting HR.

From this perspective, we will present what we consider are the challenges and benefits of NAPs and finally we will elaborate some recommendations for improving the elaboration and implementation of national action planning.

II.   Overall Guidelines for NAPs

A NAP is an action-oriented instrument and must have a practical use for the promotion and protection of HR at a national level. According to the United Nations (UN) High Commissioner's Handbook on National Human Rights Plans of Action[5], a NAP, rather than laying out claims or making vague promises, should clearly describe the current situation in the country where it is held, identify the specific problems, determine how the action will be carried out, and who will do it. Likewise, NAP processes should be outlined within a firm timeframe for the action as well as effective monitoring and evaluation. Finally, following the Handbook, NAPs should be centered on encouraging change within each country according to the country's own circumstances and should be concerned with mobilizing the will to change and developing appropriate mechanisms.[6] This national orientation of NAP' processes would require a review on each country's HR needs, a raise on awareness of HR issues, the mobilization of a broad part of society, a proposal of realistic activities, setting achievable targets, promoting bonds with other national programs, and generating commitment to action.

At an international level, NAPs shall include stronger legal framework adhesion to international norms for the protection of individuals. In this sense, every NAP would vary depending on the country for which it is developed and the UN binding agreement it is related to, for instance: NAPs on woman and security follow the UN resolution 1325 (S/RES/1325),[7] NAPs on climate change follow the Cancun Adaptation Framework (CAF), and NAPs on business follow the UN Guiding Principles (UNGPs). The ideal is the creation of a stronger HR culture

for the promotion and protection of HR, which would lead to effective social programs enhancing life quality, improving national harmony, and reducing internal conflicts.[8]

The interconnection between the international norms and the national applicability of NAPs requires a specialized and well thought through development of instruments focused on concrete actions in numerous social areas. For instance, there is the need of specifying how HR will be applied to a particular group of people such as women, children, and migrant workers or to certain problems like torture or racial discrimination. Likewise, there is the need of specifying the participation of the stakeholders, depending on their interests. All of which would vary at the local level of NAP' processes implementation and require a broader analysis of these local circumstances.

For the creation of NAPs on Business and HR there is the main United Nation High Commissioner´s Handbook from 2002 plus the more recently used DIHR-ICAR Toolkit and UNWG NAPs guidance.[9] In these handbooks, it is emphasized the role of stakeholder involvement through a NAP process, establishing multi-stakeholder working groups and steps to secure participation of marginalized or at risk groups. These guides also require transparency in the whole process of development and implementation. In addition, both documents emphasize the need for alignment to the UN Guiding Principles.[10] Altogether, there are five phases for drafting a NAP: Preparatory, Developmental, Implementation, Monitoring and Reviewing phase.[11] These phases should be considered as an iterative cycle to guarantee the periodic reviewing of the NAPs.[12]

III.   A theory on planning a NAP

One of the most comprehensive studies on NAPs is the work of Chalabi in "National Human Rights Action Planning".[13] In this book, Chalabi presents theoretical, doctrinal, empirical, and practical perspectives for analyzing national action planning. Two of the main aspects useful to our objectives are the theoretical and practical perspectives. From the theoretical perspective, Chalabi defends that it is not clear the type of change these plans can bring to society and in which manner because of its natural unpredictability. For instance, there is always the risk of having a gap between the theoretical framework of the UN Handbook, or any other NAPs' toolkit, and the reality faced at each step of the implementation of such a tool. Following this concern, Chalabi claims it is necessary to consider that planning is shaped and worked in a specific local context or, as Chalabi calls it: "complex situations", understood as the specific economic, political, cultural, and social environment.[14]

From the practical perspective, the main challenge is to find a model of governance to implement HR effectively, and at the same time manage to deal with external factors that might affect NAPs implementation and performance negatively. Within this pragmatic level, Chalabi shows the need of setting more general criteria for NAPs' flow of action, carefully following its drafting phases and the need of coping with the "complex situations" to be found in every implementation context. It is to notice how the UN High Commissioner's Handbook urges us to follow the last requirement stating that: "a national HR action plan should be based on lasting universal standards that are shared by all sectors of society. It is part of a long-term process of enhancing national observance of universal standards that should survive changes of government and be above political dispute"[15]. In this sense, the question worth asking would be: how to achieve the UN universal standards understanding that every context presents different challenges and social dynamics?

In order to overcome these shortcomings, Chalabi proposes the need to develop a general theory of HR planning which includes four "sub-theories"[16]:

1. Contextual sub-theory,

2. Substantive sub-theory,

3. Procedural sub-theory,

4. Analytical sub-theory.

According to Chalabi, the contextual theory of HR planning would explore the societal context through which planning can work like general characteristics of the state, market, community, and culture as the underlying conditions of the success of planning in practice. Whereas a substantive theory of HR planning would provide the knowledge base to inform what the content of planning should be, a procedural theory of HR planning, as its name indicates, is about procedural principles for the formation, implementation, and assessment of planning. And, finally, an analytical theory of HR planning will aid as a heuristic instrument for the analysis of rights in different phases of planning.

The analytical research of Chalabi offers, in general terms, the possibility of understanding how the main issue in the HR approach is to move from words to concrete actions–and effects– in the real lives of those who suffer the violation of their basic rights. For Chalabi, it is clear that there is still no consensus on how to put them into practice effectively, although there has been a great advance in the development of international HR instruments. As she incites us: "there is indeed an urgent need for a more proactive and systematic move than merely enacting bills of rights and offering judicial remedies. This demands effective human rights action planning at different levels from the national to regional and international."[17] So, the difficulties are ramified from within the local circumstances of every country that encourage to implement a NAP process to the international level, where there is always the need of reaching the implementation of new laws and amending of existing laws in order to comply with HR treaties.

IV.   NAPs complying with UN treaties

On the legal concerns, Methven O'Brien, has analyzed the need of including stronger legal framework adhesion to international norms for the protection of individuals in NAP processes.[18] One of the main problems that prevents a successful enforcement of this need is the tension created between the role of the UN Guiding Principles (UNGP), among other treaties, as 'soft' laws,[19] and the "transformation" of these into national legal obligations. Likewise, a second prevalent problem is the gap between the international legal liability and the national obligations to comply with it. Following Methven O'Brien, NAPs are tools created exactly with these objectives: On the one hand, there is the aim of implementing UN treaties within states by, on the other hand, drafting policies that articulate state priorities and indicate future actions to support implementation of legal obligations or policy commitments on a given topic.[20]

Methven O'Brien, together with other scholars, has focused her research on NAPs on Businesses. According to the authors, this has been the most prolific and most studied topic after the UN Guiding Principles (UNGPs) were published in 2011. Between 2011 and 2021, forty-two NAPs on business have been adopted or are in-development world-wide, while only thirty-nine NAPs on general HR were published in a period of forty years since the Vienna Declaration.[21] From the analytical and experimental approach of Methven O'Brien, the implementation and results of NAPs on Businesses are understood as a kind of new governance. Within this perspective, NAPs are considered "less rigid, less prescriptive, less committed to uniform outcomes, and less hierarchical in nature"[22] than other kinds of conventional regulations.

Even though this new governance perspective is a positive one to understand NAPs, for their good implementation and development Methven O'Brien, proposes four important points.[23]

First, in relation to stakeholders, there has been a lack of voice of rights-holders at the heightened risk of business and HR abuse. This indicates the need for "democratic legitimacy" and in particular the requirement of "targeted empowerment of marginalized groups".[24] These basic needs should be generally supported through the establishment of institutions or structures at the different countries and according to the local needs as Chalabi also points out.

The second point refers to the relation between stakeholders, the UN Framework and UNGPs, which still lacks agreement and motivation and could lead to creation of conflict. Likewise, because NAPs processes have a high degree of variation in their structure and approach, it could obscure the UNGP-by-UNGP approach advocated by guidance.[25] Third, the learning potential of NAPs is a key feature as an engine for their collaborative critique, ongoing reformulation and revision.[26] However, reaching this point would require a peer review at the regional or international level, based on broader infrastructure goals, benchmark indicators, and reporting formats. The interactive manner that presupposes a NAP process is the fourth and final point presented in the research done on Business' NAPs. Although this last point is basic, the study and the following examples on NAPs challenges show the lack and need of a deeper, longitudinal case study research.

V.   Challenges for NAP processes

The planning proposal of Chalabi and the legal concerns presented by Methven O'Brien show the complexity of implementing NAPs processes. A practical successful outcome cannot be automatically assured and the gap between the theoretical needs and the practical experience is still in need of being shortened by more research and closer follow up of this tool in the practice. The challenges are many, since every context is different and some members of the state in charge of developing an action plan might not be eager to see social change occurring and might not be willing to guarantee the substantial human and financial resource requirements. Likewise, elements like corruption or lack of means may complicate the process. These and other challenges are analyzed in the following paragraphs using examples of ongoing NAP processes on Business and HR.

1.   On the implementation timing

NAPs are designed as long-term processes that should survive changes of government and be above political disputes. Therefore, NAPs are not effective to solve urgent problems. For example, Canada released a NAP in response to the National Inquiry into Missing and Murdered Indigenous Women and Girls in 2021. The NAP was drafted within two years and the further steps remain to be implemented eventually, but the issue of murdered and vanished indigenous women and girls is urgent and needed to be addressed immediately. In this case, opting for a NAP process that serves a long-term approach seems to be a bad choice since it is lacking the capacity of immediate action and, on the contrary, it enables risking more victims of HR violations.[27]

2.   On the role of stakeholders' representation

It can be mentioned the case of Pakistan implementation of a NAP to eradicate terrorism.[28] This process was developed within a space where public hate speech, destruction of places of worship, illegal occupation and faith-based violence prevailed; and the suffering of people from various minority groups under the ongoing situation was present. During the NAP process, the minority groups were not involved and did not take part in identifying and addressing the urgent issues. This lack of the stakeholders' voice and impoverished analysis of the whole context in which a NAP would be implemented is what can lead to the failure of the process as Tranveer shows and Methven O'Brien and Chalabi point out.

3.   On the legal framework

Following Methven O'Brien, one the main concerns related to the NAPs on Businesses are their relations with the UNGPs in terms of their emphasis on "soft" laws.[29] Highlighting the necessity for such soft powers can produce tension in the compromise between greater procedural commitments to control HR risks in business operations and may be reinforced by national legal obligations. However, there is always the tension of stopping short of full international legal liability for HR abuses.[30] Therefore, NAPs could be seen as a "mask" helping to continue denying the adoptions of policies that might put business at a competitive disadvantage. This last point applies to any other HR's NAP depending on which UN treaty is followed, because of its binding legal obligations under international law that could easily be denied.

Within the same legal perspective, some consider this tool as a waste of resources which could be better invested in corporate "naming and shaming" or advocacy for "hard" law measures in areas like non-financial reporting of mandatory due diligence. [31]An illustrative example of the arguments not in favor of NAPs is that against the backdrop of the COVID-19 pandemic and the increased risks of corporate HR violations that this entails, only a minority of companies demonstrate the willingness and commitment to take HR seriously.[32]

4.   On guidance and regulation

As the UN Handbook and Chalabi urge, a national HR action plan should be based on lasting universal standards. However, guidance and regulation are still open to interpretation showing one of the most challenging issues for NAP processes. There is the case of China, which drafted and publicly released its first official NAP in 2009 and continued publishing several of these processes in the following years, planning the newest for 2021-2025, all of which allegedly addressed major HR issues in the country. However, the state wants to differentiate itself from the western HR perspective through the NAPs and proclaims their own view on HR through them contradicting western perspectives on HR. For instance, they put the right of livelihood security above the right of the individual and denounced western failures as racial discrimination and criminal cases, but, on the contrary, celebrates China's HR achievements regarding moderate prosperity building in society as successfully.[33] This case shows the lack of binding universal guidance, which could secure a context dependent approach to address HR issues. In the lack of universal standards and its careful follow up, the freedom of different layouts and procedures is a negative influence for the whole process showing the states' highly biased interests, its connections and intentions.

5.   On the complex situations and the reality check

Chalabi presents the need of planning in a specific local context understood as the specific economic, political, cultural, and social environment that is always challenging. Depending on various aspects, the efforts put forth for the implementation of a NAP process may or may not be justified. Policy, resources, priorities, measurement, monitoring, and analysis must be appropriate for the plan to be considered realistic to implement. Politics in many countries arguably prioritizes self-interest over prosocial behavior such as assuring the respect of HR. For instance, the intention of India's NAP in 2008 to fight climate change was disrupted among other aspects by the lack of state support in terms of financing.[34] In the end, India's NAP was not successful because the goals were set in a too ambitious and broad manner.

At the practical level, the effectiveness and applicability of NAP processes are challenging and, therefore, can be questioned. The challenges above presented show this difficulty that addresses the absence of evaluating measures or measures which are usually very vaguely formulated.[35] Likewise, the constant presence of corruption fragments the positive interaction that should be created between theory and practice. In general terms, these examples miss

binding principles, stakeholders' inclusion, effectiveness, specific regulations, resources and applicability. The last shows a constant lack of detailed analysis on the local circumstances that could close the gap between theory and praxis in NAP processes and, although the situation seems challenging, the benefits are still promising as we will present them in the next section.

VI.   Benefits of NAPs

NAPs are considered as one of the best tools to promote UNGPs' implementation, even though "the views remain sharply divided on the merits, legal, and political viability of such an instrument"[36]. However, the arguments in favor of NAPs are mainly theoretical because, as we have shown in the last section, there is a lot of work to do on closing the gap between theory and praxis. This is precisely the effort of scholars like Chalabi and Methven O'Brien by analyzing and suggesting possible solutions to adapt closer to reality the handbooks on NAP processes. These scholars, following the handbooks, emphasize the need of each country on describing the current situation in the locality where it is held, identify the specific problems, determine how the action will be carried out and who will do it clearly, rather than laying out claims or making vague promises.

In general terms, it is urged the need of outlining a firm timeframe for the action as well as effective monitoring and evaluation. In addition, following the UN Handbook (op. cit.), NAPs have a positive impact on raising awareness of HR issues, drawing global attention to a particular problem in a country, and bringing the government to the table to address those problems. Thus, NAPs activate state HR obligations more broadly to bring "national laws, policies, and institutional practices" in line with international obligations, improve national harmony, reduce conflict, and thus raise the standard of HR.[37] Furthermore, NAPs promote the cross-governmental participation needed to ensure horizontal policy coherence, as NAPs keep stakeholders such as NGOs and civil society engaged with governments and stakeholders. Adopting principles such as transparency, inclusion, participation, and non-discrimination in the creation of NAPs should also empower rights holders and create a space for dialogue and greater mutual understanding among stakeholders.[38]

In consideration of the above, and following the UN Handbook, NAPs ideal outcome includes a stronger legal framework that meets international standards, better protection for individuals, a stronger HR culture, stronger national institutions to promote and protect HR, more effective social programs to improve the quality of life for all, improved national harmony, and a reduction in internal conflict.[39] NAPs therefore have the potential to be an essential and useful tool to promote, protect and improve the national condition of HR, and could be very useful to take several concrete actions after the ratification of treaties.

VII.   Recommendations

Following the efforts of Chalabi and Methven O'Brien, in this section we will contribute with further recommendations aiming to close the gap between the theoretical and practical discrepancies on NAP processes. As we have shown, the challenges for the implementation of this tool outweigh its actual benefits; nevertheless, we believe that NAPs have great potential.

1.   On universal standards

NAP processes, as de Felice and Graf emphasize, should focus on answering the more general question: "[W]hich features make these documents effective tools to transform commitment onto compliance?"[40] These researchers recommend following some of the next general points, which would be basic for the development of each NAPs process: (1) hold a firm commitment to fully implement the UN treaty in question, (2) precise conform to the structure and language of the treaty, and (3) highlight the role of stakeholders on monitoring NAPs processes and

their constant updating to fill the gaps between UN treaties and actual reality. If the basic points presented in this paragraph are not forgotten for NAPs processes and because of their constant monitoring and multi-stakeholder nature, these tools will continue being helpful to comply with obligations set up by HR treaties.

2. Research and experience gained from NAPs on businesses

The research done and experience already gained from business' NAPs can shed light on the implementation of new NAPs and monitoring of the already existing. For instance, when talking about NAPs on climate change, gender, or the tech sector, the UNGP on businesses are also directly involved. From this perspective, we suggest considering the need to advance national compliance with international norms that is still there, and such businesses should continue to improve their "compliances with HR standards emphasizing the need of constructing HR due diligence as a core component"[41].

3. On implementation goals

Following Rattani, it would be advisable to plan for more specific and less ambitious objectives.[42] Likewise, according to Niebank, formulating evaluation measures less vaguely would increase effectiveness and appropriateness of a NAP process.[43] The experience gathered in this text shows that this kind of plans tend to easily fail.

4. On a global network and the creation of international action plans

As Chalabi suggests, it is important to consider that we cannot work at only a national level and hope to find the solution to the complex problem of HR violations in today's globalized world. As she proposes, NAPs work as bridgebuilders "between international commitments and national implementation".[44] The national implementation should be checked more thoroughly by the international commitments. So, there is still open the call to bring together national and international laws in order to comply with binding principles and give an exact follow up to each NAP process in the practice.

5. On transforming commitment into compliance.

Following the three points presented above from de Felice and Graf,[45] first, we consider it fundamental to continue the debate about the obligations of states. Second, a consensus should be reached on how to develop legally binding processes for the protection and promotion of HR. Ideally, in the third place, it should be mandatory for the states to work on NAPs related to their HR violations instead of receiving recommendations after a Universal Periodic Review (UPR). In this case, there should be designated a specific government entity to be in charge of the amendment process.

Following these recommendations, it should be highlighted the importance of setting up several UN committees (independent of the state) for the drafting, monitoring, implementing and reviewing of a NAP process. In this manner, it could be warranted the close exchange with special rapporteurs as the critical voice in every step as well as guidance partners during the whole process. The role of these special rapporteurs would be to question the neutrality of each step, care about the different groups of people in the state, and observe conferences and conversations. In this way, the involvement of minority groups and other stakeholders, the setting of realistic goals, the follow up of the phases, and maintenance of transparency would be guaranteed.

VIII. Conclusions

Our main objective in this essay has been to analyze the challenges presented during NAPs processes as well as the benefits this set of actions entails. The challenges faced by these seem to overflow their benefits. However, in a long-term perspective and if our recommendations in this text are followed, we defend the benefit of their implementation for complying obligations set up by HR treaties. A detailed planning and analyzing of every state's local circumstances, as Chalabi suggests, to effectively bring into practice a NAP is crucial. The need to continue working on national and international laws for a real transformation of Guiding Principles and treaties into binding legal obligations for a proper implementation of NAPs, as Methven O'Brien urges, is still there. In the same line, we recommend making it binding to work and implement NAPs, instead of receiving recommendation after a UPR. Likewise, we consider that special rapporteurs must monitor NAP processes and should have a neutral but critical role to work collaboratively on their realization.

The fact that NAP phases should be considered as an iterative cycle of periodic reviewing is a call, as well, for more critical analysis and research on these processes. We consider it fundamental to keep on learning from the experience gathered to overcome the present and future challenges. Like this study presented here, the constant investigation on NAP processes enabled us a broader vision on the complexity of promoting and protecting HR in the praxis within different local contexts. Finally, it is fundamental to remember the role of the stakeholders and the voice of the victims, as a fundamental and highly valuable part of a NAP process. In the end, the idea is to implement a concrete set of actions that will directly transform and improve the living conditions of the people.

1   Methven O'Brien **C.,** Mehra A. and Blackwell S., 'National Action Plans: Current Status and Future Prospects for a New Business and Human Rights Governance Tool', Business and Human Rights Journal, 1(2016)1, pp. 117–126.

2   UN, *Handbook on National Human Rights Plans of Action*, 2002. Available at: https://www.ohchr.org/Documents/Publications/training10en.pdf (Accessed: 29 January 2022).

3   UN, *Vienna Declaration and Programme of Action*, 1993, p. 17. Available at: https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx (Accessed 26 January 2022).

4   Chalabi, A., *National Human Rights Action Planning*, 2018, Oxford University Press; Methven O'Brien et al., 2016; Methven O'Brien, C., Ferguson, J. and McVey, M., 'National Action Plans on Business and Human Rights: an Experimentalist Governance Analysis', Human Rights Review 23(2022)1, 71-99.

5   UN, *Handbook*, 2002.

6   UN, *Handbook*, 2002, p. 10.

7   Cf. Weiß, N., *Frauen, Frieden und Sicherheit – was hat Resolution 1325 gebracht?* (Staat, Recht und Politik – Forschungs- und Diskussionspapiere = State, Law, and Politics - Research and Discussion Papers (1)), 2016.

8   UN, *Handbook*, 2002; PeaceWomen (2013) *Women, Peace and Security National Action Plan Development Toolkit.* Available at: https://www.peacewomen.org/assets/file/national_action_plan_development_toolkit.pdf (Accessed: 29 January 2022).

9   DIHR-ICAR, *National Action Plans (NAPs) Toolkit: 2017 Edition*, ICAR, 2017. Available at: https://www.icar.ngo/publications/2017/12/21/national-action-plans-naps-toolkit-2017-edition (Accessed: 27 January 2022); UN Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, 2016.

10   UN, *Guiding Principles on Business and Human Rights*, 2011. Available at: https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf&action=default&DefaultItemOpen=1 (Accessed 29 January 2022).

11   Weber, F., *Ein Nationaler Aktionsplan für Menschenrechte für Deutschland?*, 2003. Available at: https://www.institut-fuer-menschenrechte.de/fileadmin/_migrated/tx_commerce/ein_nationaler_aktionsplan_fuer_menschenrechte_fuer_deutschland.pdf (Accessed: 29 January 2022); UN, *Handbook*, 2002.

12   Methven O'Brien et al., 2022, p. 79.

13   Chalabi, 2018.

14   Chalabi, 2018, p. 7.

15   UN, *Handbook*, 2002, p. 14.

16   Chalabi, 2018, p. 2.

17   Chalabi, 2018, p. 1.

18   Methven O'Brien et al., 2022.

19   Muchlinski, P., 'The Impact of the UN Guiding Principles on Business Attitudes to Observing Human Rights', Business and Human Rights Journal, 6(2021)2, pp. 212–226.

20   Methven O'Brien et al., 2016.

21   Methven O'Brien et al., 2016.

22   de Búrca, G. and Scott, J., 'Introduction: New Governance, Law and Constitutionalism', in G. de Búrca and J. Scott (eds.), *Law and New Governance in the EU and the US*, 2006, London: Hart Publishing, pp. 1-12 (p. 2).

23   Methven O'Brien et. al., 2016.

24   de Búrca and Scott, 2013; MacDonald, T. and MacDonald, K., 'Towards a 'pluralist' world order: creative agency and legitimacy in global institutions', European Journal of International Relations, 26(2020)2, pp. 518-544.

25   Methven O'Brien et. al., 2016.

26   Methven O'Brien et. al., 2022.

27   Macyshon, J., 'Long-awaited national action plan on MMIWG falls short, critics say', CTV News. 2. June 2021. Available at: https://www.ctvnews.ca/politics/long-awaited-national-action-plan-on-mmiwg-falls-short-critics-say-1.5454171. (Accessed: 19th December 2022); Deer, K., 'MMIWG national action plan is an inadequate response to the crisis, say Indigenous women's advocates', CBC News, 3. June 2021. Available at: https://www.cbc.ca/news/indigenous/mmiwg-national-action-plan-indigenous-women-advcates-1.6052156. (Accessed: 19th December 2022).

28   Tanveer, R., 'No country for minorities: 'National Action Plan has failed'', The Express Tribune, 2016. Available at: https://tribune.com.pk/story/1107193/no-country-minorities-national-action-plan-failed (Accessed: 19 December 2022).

29   Methven O'Brien et. al., 2016; Muchlinski, 2021.

30   Muchlinski, 2021.

31   Methven O'Brien et al., 2016.

32   World Benchmarking Alliance, *COVID-19 and human rights. Assessing the private sector's response to the pandemic across five sectors*, 2021. Available at: https://assets.worldbenchmarkingalliance.org/app/uploads/2021/02/CHBR-Covid-Study_110221_FINAL.pdf (Accessed: 19 December 2022).

33   Mok, C., 'How China Defines Human Rights', 15. November 2021. Available at: https://www.freiheit.org/southeast-and-east-asia/how-china-defines-human-rights. (Accessed: 29th January 2022); 'Human Rights Watch, Promises Unfulfilled - An Assessment of China's National Human Rights Action Plan', 11. January 2011. Available at: https://www.hrw.org/report/2011/01/11/promises-unfulfilled/assessment-chinas-national-human-rights-action-plan. (Accessed: 29th January 2022).

34   Rattani, V., *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change.* New Delhi: Centre for Science and Environment, 2018, p. 32.

35   Niebank, J.-C., *Comparing National Action Plans implementing the UN Guiding Principles on Business and Human Rights: Comparison of European countries and the United States of America* (Analysis / German Institute for Human Rights), Berlin: Deutsches Institut für Menschenrechte 2019, p. 31.

36   Methven O' Brien et al., 2016.

37   Methven O'Brien et al., 2016, p. 121.

38   Methven O'Brien et. al., 2022.

39   UN, *Handbook*, 2002.

40   de Felice, D. and Graf, A., 'The Potential of National Action Plans to Implement Human Rights Norms: An Early Assessment with Respect to the UN Guiding Principles on Business and Human Rights', *Journal of Human Rights Practice*, 7(2015)1, pp. 40–71, p. 43.

41   Ruggie, J.G., Rees, C. and Davis, R., Ten Years After: From UN Guiding Principles to Multi-Fiduciary Obligations, in *Business and Human Rights Journal*, 6(2021)2, pp. 179–197, p. 181.

42   Rattani, V., *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change.* New Delhi: Centre for Science and Environment, 2018, p. 31.

43   Niebank, 2019, p. 31.

44   Chalabi, 2018, p. 184 et seq.

45   de Felice and Graf, p. 42 et seq.

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